THE DEPUTY CHAIRMAN: We shall now take up the Advocates' Welfare Fund Bill, 2001. इस बिल पर तो कई बोलने है । इसको क्या अपोज कर रहे हैं ?

श्री संघप्रिय गौतम (उत्तरांचल)**:** मैडम सब सपोर्ट कर रहे हैं ।

उपसभापति : एटलीस्ट यह तो मालूम होगा कि इस हाउस में कितने वकील है इसलिए सब पहले खडे होकर हाथ उठा दीजिए । मुझे मालूम हो जाये कि इस हाउस में कितने वकील है ।

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THE ADVOCATES' WELFARE FUND BILL, 2001

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND THE MINISTER OF SHIPPING (SHRI ARUN JAITLEY): Madam, I move:-

> "That the Bill to provide for the constitution of a welfare fund for the benefit of advocates and for mattersconnected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration*.

Madam, I will just explain the need for a Bill of this kind and what the salient features of this Bill are. It had been a longstanding demand of the lawyers all over the country that a Central legislation of this kind should be drafted. There are several State Governments and State Assemblies which have already a law of this kind in place and we had different experiences of a law of that kind. This law protects each one of them, unless those State Assemblies or the State Governments decide that they may find this as a beneficial provision and decide to transfer themselves and their lawyers into the benefits of this Bill.

The scheme of this Bill is that it bears in mind that professionals otherwise do not have any element of social security. There is i .0 Provident Fund. There is no gratuity. There is no pension. Some of them, of course, do earn very well. But the earnings of a very large number of them are not so high as to even sustain them or their families out of the savings that they have.

This Bill, under section 3, constitutes an Advocates' Welfare Fund. There are enabling clauses as to from where monies can come in. The Governments can also make contributions to the Fund.

The Bar Councils, the Bar Associations, can make contributions to the Funds, but the principal distinction between this and the State Funds is -- we have studied the experience of all the States -- we had written to all the States to share those experiences with us -- I also had a occasion to discuss it with the cross-section of the lawyer community and their elected representatives — one of the problems that we noted was — that membership in a large number of State Funds was not compulsory, and, therefore, when it was made optional, the optional membership experience did not succeed in some States. It succeeded where the membership was compulsory. So. -there is a compulsory membership; there is an entry fee into the Fund; there is an annual renewal fee. The principal source of funding, in addition to this, comes from two sources. Twenty per cent of what the Bar Councils collect, by way of enrolment fee from lawyers, will be transferred to this Fund. And, additionally, every lawyer -- it has been made clear in this Bill -- out of his own earning, and not by transferring the burden to his clients, is expected to put a welfare stamp on the *wakalatnama* of every case he files. Now, this welfare stamp, for subordinate courts, has been fixed at five rupees; for tribunals, other authorities, High Courts, Supreme Courts, it has been kept at ten rupees. So, there are two sides in a case, the amount will get doubled because both will have to put that welfare stamp. This Welfare Fund would be managed and administered by a committee which is constituted in every State. The Committee would be headed by the Advocate General of .the State. It will have the Chairman of the Bar Council, Secretary of the Bar Council, the Law Secretary of the State Government and also some members of the Bar Council. It is this Committee which will administer this Fund. The sale of these stamps will also be administered by this Committee. There are several terms with regard 10 the appointment of members and their disqualifications, but section 18 makes the membership of the Fund compulsory for all advocates.

With regard to the benefits that the advocates would get out of this Fund, there are three different provisions. Section 19, section 21 and section 24. Section 19 provides for a Trust, giving an ex-gratia payment to any member of the Fund, in the event of his serious illness or surgery -- they will take into consideration all circumstances; what his other financial circumstances are. Section 21 has a Schedule attached to the Bill, that on cessation of practice, a token amount will be given to every advocate. The third and the most important section is section 24 which provides for different kinds of assistances which can be given, like obtaining group

insurances, life insurances, medical and educational facilities, for young lawyers, some assistance in terms of books. And there are other provisions which can be made, in the event of his d. th. Whatever scheme the State Committee, the Trust Committee, would fon.jlate, his family members would get that assistance, in the event of his death, and this amount will actually be a substantial amount. In the even of his death, it will be the social security amount which is given to his family. There is also a provision, that because amenities in various courts are still lacking, 10 per cent of what is collected will be spent on common amenities, as far as the district and the subordinate Bar Associations are concerned, because that is where the amenities are required to be improved upon.

There are two other provisions. One, some of the benefits of this Fund may not be available to those who are designated senior advocates because it is presumed that they have a larger practice, and, therefore, may not need the benefits of this Fund -- they are only entitled to certain collective group benefits out of this Fund. There is also a provision that as far as the Schedules attached to this Fund are concerned, if some States have a larger amount available with them, they can always amend and improve upon those Schedules, in the context of those States. There is also an appeal provision; if somebody is dissatisfied with any decision of the Trust which has been created, an appeal lies to the full Bar Council of that particular State. Therefore, the overall scheme, as far as this Bill is concerned, appears to be that, substantially, the funds for this will come from the legal community themselves, unless somebody voluntarily gives to them. These funds would be administered and improved upon by depositing them or by group insurance, etc. There would be a Committee comprising of their own elected representatives, with the Advocate General as the head, which would provide the social security mechanism. Now, I must mention that 16 States -- this is specified in Schedule II -- have already legislated. We have included a saving clause in respect of all these State legislations because the subject is in the Concurrent List. Unless, on account of compulsory membership and certain other salient features, some States feel that it is beneficial to come within the scope of the Central legislation, then

we have the power to delete that particular State out of Schedule II, and they would also be entitled to the benefits of the Central legislation. Madam, I propose that this House takes this up for consideration and approval.

The question was proposed.

THE DEPUTY CHAIRMAN: I hope the senior lawyers will get the litigation faster so that there will be more litigation and there will be more work, *Wakalatnama*^ and more welfare fund for the *vakils.*

Now, I have so many names. The total time given is one hour. मीणा जी , आपको ज्यादा विस्तार से बोलना है या जितना कंट्रीब्युशन है उतना ही ...(**व्यवधान**)... आप हाउस चला रहे हैं या मैं ? क्योंकि मुझे बहुत से बिल पास कराने है जो काफी महत्वपूर्ण है । इसके अंदर तो हम वेलफेयर कर रहे हैं इसलिए कुछ कंट्रावर्सियल नहीं है ।

श्री मूल चन्द मीणा (राजस्थान)**:** महोदय। शार्ट में बोलेंगे । उपसभापति महोदय मंत्री जी ने " अधिवक्ता कल्याण निधि विधेयक 2001 " एक अच्छी भावना के साथ पेश किया है । इसके साथ ही साथ मैं यह भी कहना चाहूंगा कि जो छोटे वकील ,नये वकील आते हैं उनके सामने बहुत सी समस्याएं होती है इसलिए यह बहुत आवश्यक है । जो नये एडवोकेट आते हैं उन्हें नहीं मिलते उन्हें मुकदमे नहीं मिलते .उनके पास क्लाइन्ट्स नहीं आते उनके लिए खर्चा चलाना भी दुश्वार हो जाता है, उनकी स्थिति बहुत दयनीय हो जाती है बहुत अच्छी बात है कि मंत्री जी उनकी रक्षा के लिए इस बिल को लाए हैं इसलिए हमें इसे सपोर्ट करना चाहिए, यह एक अच्छी भावना के साथ आया है , अच्छे कॉज के लिए आया है । जो एडवोकेट बनकर आते हैं वे असफल होने के बाद या तो वापस चले जाते हैं या दूसरे धंधों में लग जाते हैं । जब रोजगार नहीं होगा , पैसा नहीं आएगा तो खर्चा कहां से चलेगा । उनकी सुरक्षा के लिए एक कल्याणकारी कोष होना चाहिए जिसके अंतर्गत उन्हें वजीफा मिलता रहे जिससे उनका काम चलता रहेगा। कनिष्ठ अधिवक्ताओं के वित्तीय सहायता के रूप में सामाजिक सुरक्षा और निर्धन या असमर्थ अधिवक्ताओं के लिए कल्याणाकारी स्कीमें ,विधिक समाज के लिए दीर्घकाल से चिंता का विषय रही है । यह जो बात आपने सोची है हमें उनकी सुरक्षा को भी देखना पड़ेगा । सभी व्यवसायरत अधिवक्ता , आवेदन फीस और वार्षिक अभिदान के संदाय पर निधि के सदस्य बन जाएंगे । निधि , समुचित सरकार द्वारा स्थापति न्यासी समिति में निहित होगी और उसके द्वारा धारित तथा उपयोजित की जाएगी । निधि का उपयोग , अन्य बातों के लिए निधि ,के किसी सदस्य को किसी गंभीर स्वास्थ्य समस्या की दशा में अनुग्रहपूर्वक अनुदान करने व्यवसाय बंद हो जाने पर तथा किसी सदस्य की मृत्यु की दशा में उसके नामनिर्देशिती या विधिक वारिस को एक नियत रकम के संदाय सदस्यों और उनके आश्रितों के लिए चिकित्सीय और शैक्षिक सुविधाओं , अधिवक्ताओं के लिए पुस्तकों के क्रय औऱ सामान्य सुविधाओं के लिए किया जाएगा । इस व्यवस्था में आपने जो नये वकील बनकर आते हैं उनके परिवारों स्वास्थ्य आदि की सारी चीज़ों को समावेशित किया है । यह बहुत अच्छी बात है। हमें इसे सपोर्ट करना चाहिए और मैं इसे सपोर्ट करता हूं ।

SHRI ARUN JAITELY: If you multiply the number of cases ...*(Interruptions)*...

उपसभापतिः बहुत कम पैसे दिए हैं, पांच –दस रुपये कम हैं।

श्री मूल चन्द मीणाः शार्ट में बोलने की बात थी, नहीं तो मैं और भी बोल सकता हूं ।

उपसभापति : आप शॉर्ट में बोल दीजिए की ज्यादा पैसे बढाने चाहिए । पांच-दस रुपये में क्या होता है । पांच रुपये में तो एक चाय की प्याली भी नहीं आएगी ।

श्री मूल चन्द मीणा : महोदय. सपोर्ट तो किया । लाए तो सही । जहां तक बढाने की बात है तो जितना खर्चा हो रहा है उसमें आपने जो सपोर्ट दिया है क्योंकि मंत्री जी भी एडवोकेट रहे हैं इसलिए वे जानते है कि स्टार्टिग में एडवोकेट की क्या स्थिति होती है ।

उपसभापति :अभी –भी है ।

श्री मूल चन्द मीणा: अब तो मंत्री है, हां मैं कहता हूं कि एडवोकेट भी है इसलिए उन्हें पता है कि स्टार्टिंग कैसे होती है । किस प्रकार की दयनीय स्थिति में एडवोकेट अपनी वकालत स्टार्ट करते हैं ,अपना काम शुरू करते हैं । उनके सामने बहुत से संकट होते हैं जिन्हे दूर करने के लिए आप यह विधेयक लाए हैं । इसमें जो अनुदान की राशि है वह कम है यदि आप इसे संशोधित करके बढ़ाएं तो बहुत अच्छा होगा क्योंकि आज देश में जो खर्च है उसमें किसी व्यक्ति को जीवन निर्वाह करने के लिए ज्यादा पैसा चाहिए अगर आप मामूली पैसा देगें तो उससे इतना फायदा नहीं हो पाएगा । लेकिन आपने शुरूआत की है । आपकी भावनाओं से यह लगता है कि आप इसमें कुछ संशोधन करके इसकी व्यवस्था इसमें कर रहे हैं ताकि वे अपने बच्चों को शिक्षा दिला सके , अपने स्वास्थ्य की रक्षा कर सकें और उनके न रहने पर भी उनके वारिसों को लाभ हो सके । लेकिन आपने इसमें जो पैसा रखा है यह मामूली है , अगर उसमें बढोत्तरी कर दें , वृद्वि कर दें तो अच्छा होगा और आगे आने वाले अधिवक्ताओं को इससे एक रास्ता मिल जाएगा यही मुझे कहना है ।

उपसभापति :आप यह कह रहे हैं मंत्री जी कि There are a number of litigations. So, we want to reduce the number of litigations; but we should get more money.

SHRI ARUN JAITLEY: Madam, I may just clarify. I would have clarified this point in the beginning itself. There is a limit under clause 27, which says, "Provided further that the appropriate Government may prescribe different value for the stamps..." So, there is an inbuilt provision; and, without amending the law, if the situation arises, you can increase the value. This amount -- Rs. 25 -- has been kept as an outer limit.

उपसभापति : संघ प्रिय गौतम जी आप हाथ उठा रहे थे , आप बोलिये ।

श्री संघ प्रिय गौतम (उत्तरांचल)**:** उपसभापति महोदय, मुझे वकालत करने का अवसर मिला है ।हमारे यहां एक बड़े लोकप्रिय अधिवक्ता थे , जिनकी दिन दहाड़े किसी कारण हत्या हो गई, उनकी लड़की की शादी भी थी । कोई सम्पत्ति उनके पास नहीं थी । बड़ी समस्या सामने खड़ी हो गई और जिस लड़के साथ रिश्ता तय हुआ था वह अमेरिका से आया हुआ था । उस समय कोई कल्याण निधि वकीलों के लिए नहीं थी । अच्छा हुआ कि उस समय बुलन्दशहर कलक्टोरेट बार एसोसिएशन के वकीलों ने मिलकर आनन-फानन काफी पैसा इकट्ठा कर दिया और उससे उनका दाह संस्कार कर दिया तथा लड़की की शादी भी कर दी । उस समय इस बात का अनुभव हुआ कि ऐसे बहुत से अधिवक्ता हैं, जिनके पास अन्य कोई आमदनी का जरिया नहीं है और वे केवल वकालत के ऊपर ही निर्भर करते हैं । पिछले समय से काफी एनरोलमेंट अधिवक्ताओं का हो गया है। पहले जनपद में मुख्य न्यायालय हुआ करते थे लेकिन अब तहसीलों

पर न्यायालय चले गए हैं और अधिवक्ताओं की संख्या भी काफी बढ़ गई है । हालांकि मुकदमों की संख्यां बढ़ रही है लेकिन जिस अनुपात में छोटे मुकदमों और छोटे वकीलो की संख्या बढ़ी है । उस अनुपात में उनको धनराशि उपलब्ध नहीं होती है । इसलिए उनके भरणपोषण में भी काफी कठिनाई होती है । मंत्री महोदय, और सरकार ने यह अच्छा और उचित कदम उठाया है । मैं इसकी सराहना करता हूं और मैं इस बिल का समर्थन करता हूं ।

उपसभापति : श्रीमती चन्द्रकला पांडे। क्या आप भी लायर हैं और इसलिए बोलना चाहती है?

श्रीमती चन्द्रकला पांडे(पश्चिमी बंगाल)**:** माननीय उपसभापति महोदया, आपने कहा कि आप एडवोकेट हैं मेरा यह उत्तर है कि सांसद अपनी बात करते हैं अन्य पेशे वाले अपनी बात करते हैं लेकिन मैं एडवोकेट न होते हुए भी अधिवक्ताओं के लिए प्रस्ताविक कल्याण निधि विधेयक पर कुछ कहना चाहूंगी , एडवोके करूंगी । महोदय, अभी सदन में घुसने से पहले माननीय मंत्री जी से मेरी बात हो रही थी । जिस ढंग से वे बता रहे थे मुझे ऐसे लगा कि उनका कहना ठीक ही है ।इस प्रकार के बिलों का हमे स्वागत करना चाहिए । इस बिल के बारे में मेरी कुछ बातें कुछ सुझाव और कुछ जिज्ञासायें हैं जिनके बारे में मैं कुछ कहना चाहूंगी । महोदय मैं पेशे से अध्यापक हूं इसलिए मुझे अध्यापक के लहजे में बात करनी पड़ रही है । एक कहावत है कि "पूत कपूत तो का धन संचय और पूत सपूत तो का धन संचय" । यदि पुत्र कुपुत्र है तो धन संचय क्यों करें क्योंकि वह उस पैसे को वैसे ही उड़ा देगा और यदि पुत्र सुपुत्र है , वह लायक है तो वह स्वयं धन कमा लेगा । अगर कमजोर वकीलो की बात कर रहे हैं तो उनके लिए अधिक राशि की आवश्यकता है क्योंकि यह समृद्व वकीलों की बात है ही नहीं। इसलिए मैं सबसे पहले यह सुझाव देना चाहती हूं कि 16 राज्यों में जहां पर इस तरह के कल्याण कोष हैं जहां पर केंद्रीय कल्याण कोष बनाने की जरूरत मंत्री जी को महसूस हुई तो क्या यह संभंव नहीं था कि देश के नामी गरामी प्रतिष्ठित जो वकील है उनसे कहा जाता कि वह इसमें पैसा जमा करें ? और वह कल्याण कोष में रख दिया जाए । उसके बाद स्टेंम्प्स वगैरा से जो आमदनी होगी उससे कल्याण कोष अधिक बढ़ेगा । एक बात और मैं जानना चाहूंगी कि जरूरतमंद अधिवक्ताओं को आपने कहा कि सुविधाए दी जाएगी । राज्यों के वेलफेयर फंड है ,वह उनके सदस्य हैं क्या राज्य सरकारों के कानून विभागों से आप लोगों ने बातचीत की है अगर बातचीत की है तो राज्य के जो कल्याण कोष हैं उन्हें किस तरह से अलग कर के रखेंगे? सामाजिक सुरक्षा के अभाव में आपने मृत अधिवक्ताओ के परिवार या स्वंय कर्म-अक्षम हो जाने की स्थिति में या प्रेक्टिस छोड़ देने पर अन्य किसी प्रकार का काम करने की सुविधा इस फंड से दी जाएगी । वह अन्य सुविधा किस प्रकार की है और कौन सा काम है? नयी तकनीक और उन्नत तकनीक के जमाने में जहां कुछ पुस्तको की खरीद मात्र की बात कही गई है मैं पूछना चाहूंगी कि कंप्यूटर और इंटरनेट के जमाने में क्या इस प्रकार कि बुनियादी सुविधाएं आप प्रदान करेंगे । जहां नये आने वाले अधिवक्ता अधिक से अधिक जानकारी प्राप्त कर सकेंगे और वह अपना काम सुचारू रूप से कर सकेंगे । एक और सुझाव मैं यह देना चाहती हूं कि वेलफेयर फंड में जो राशि जमा की जाएगी उसे कुछ बढ़ाया जाए जिन विभागों में वकालतनामें की जरूरत होती है जैसे ए.डी.एम., एस.डी.एम. और कलक्टरी आदि उनमें भी स्टेम्प फीस लगाई जाए और उससे जो आमदनी हो वह भी फंड में शामिल की जाए इससे कल्याण कोष का संसाधन स्त्रोत बढ़ेगा और राज्यों में जो कल्याण कोष हैं उनके बराबर ही है तो फिर इसे देखते हुए आवश्यक हो जाता है कि आप इसमें प्रावधान रखे।

इसकी राशि इतनी कम है जैसे 30 वर्ष के बाद 30 हजार रूपये किसी भी सम्माननीय वकील के लिए यह राशि बहुत कम है वैसे एक के लिए हजार दो के लिए दो हजार मैं इस राशि को बढ़ाने का अनुरोध करूंगी । अध्याय 5 में 15वीं सूची में यह बताया गया है कि ज्येष्ठ अधिवक्ता, सीनियर एडवोकेट एक हजार वार्षिक चंदा देंगे । यहां सीनियर एडवोकेट को अधिक स्पष्ट करने की जरूरत है सीनियर्टी पैसा कमाने कि दृष्टि से या उम्र की दृष्टि से या कितने पीरियड से उन्होंने काम किया है यह सीनियर्टी किस रूप में है? एक वकील 15 साल काम करने के बाद भी प्रतिष्ठित नहीं हो सकता हैं, एक वकील दो वर्ष काम करने के बाद भी प्रतिष्ठित हो सकता है और एक सारा जीवन काम करने के बाद भी प्रतिष्ठित नहीं हो सकता है तो मैं चाहूंगी कि ज्येष्ठ अधिवक्ता सीनीयर एडवोकेट की परिभाषा को क्लीयर करें इसी में 19 और 20 में हैं बीमार हो जाने पर अस्पाताल में भर्ती होने की दशा में यह बड़ी सल्य क्रिया की दशा में कुछ खास बीमारियों के नाम हैं, कुछ अनुग्रह शिशी दी जाएगी। यह अनुग्रह राशी कितनी होगी यह आंशिक होगी या पूरी होगी? अगर कोई जूनियर एडवोकेट बूरी तरह किसी रोग से ग्रसित हो जाता है तो उसके इलाज के लिए पैसे नहीं हैं तो यह कमेटी निश्चित करेगी कि उसे दो हजार रूपये दिये जाएं तो उस रूपये से सागर में दो चार बूंद डालने से कोई लाभ नहीं होगा । यह आप कृपया क्लीयर कर दें कि अनुग्रह अनुदान कितना है पूरा या आंशिक है? जो भी हो इस प्रकार के कल्याण कोष की बात कहीं गई है, मैं सोचती हूं कि कम से कम नये अधिवक्ता ओं का कुछ न कुछ कल्याण अवश्य होगा । महिला होने के नाते एक बात और मैं कहना चाहूंगी जो नयी महिलाएं एडवोकेट आएंगी उनके लिए क्या इस कल्याण कोष से कुछ विशेष व्यवस्था करेंगे या कुछ रिज़र्व राशि रखेंगे? धन्यवाद।

उपसभापति : धन्यवाद। अच्छा बोली हैं। वैसे हम लोग चाहे किसी भी प्रोफेशन से आते हों पर यहां सब एडवोकेसी करते हैं, इश्युज कि एडवोकेसी करते हैं ।

SHRI P. PRABHAKAR REDDY (Andhra Pradesh): Thank you, Madam. I rise to support the Advocates' Welfare Fund Bill, 2001. The object of the Bill, that is, to provide social security to advocates, is laudable. The advocates play a vital rote in protecting the rights of the citizens and also in upholding the rule of law. Madam, the role played by the lawyers during the freedom struggle is commendable; therefore, any move to create a welfare fund for the lawyers must be supported. Sir, while supporting the Bill, I would like to point out one or two things. The Bill proposes to bring about uniformity in the operation of Advocates' Welfare Fund in various States. But Madam, the purpose of the Bill is virtually watered down by the saving clause. As per this clause, this Act will not apply to the 16 States which have their own laws, as specified in Schedule II. Therefore, there is a possibility of these 16 States not adopting this Bill when it becomes an Act. Sir, it will be better if, in a matter like this, there is some uniformity throughout the country.

Now, Madam, I would like to point out the second anomaly. The Bill provides that whenever the Committee is superseded, the funds are

transferred to the appropriate Government. There is also a provision in the Bill that the Committee has to be re-constituted within a period of six months. If that is the case, why should the funds be transferred to the Government? I feel, it is wholly unnecessary, and this can be deleted.

Sir, the other thing that I would like to suggest, which I feel is very, very important, is that the interest of the young advocates, the advocates who enrol themselves, has to be protected. Just as we are taking care of advocates who have given up practice, who are old in age. similarly, the young lawyers need to be supported. Madam, it is at that time they require a lot of support, as they go through a lot of privations and difficulties. Therefore, my suggestion is that some amount must be earmarked for the welfare of the young advocates, particularly, for enabling them to set up libraries, because library is a tool for any advocate. Some portion of the financial assistance must be earmarked for this purpose.

Madam, another important thing, I feel, is that there should not be any fetters on the Committee as to who should be given the benefits and who should not, because the Committee is headed by the Advocate-General, and competent Advocates are there on the Committee. Therefore, it must be left to the discretion of the Committee to decide as to who should get the benefit. The best beneficiaries should be those who need the fund the most. I am borrowing the words of the hon. Minister.

Madam, the last point that I would like to make is that it would have been ideal had the Central Government given some corpus to the Advocates' Welfare Fund. Their concern for the welfare of the advocates would have been better appreciated had they contributed some amount to it. I understand, some States are doing this. If the Central Government also thinks on those lines, it would be better, but, anyway, there is a provision which says that the Central and State Governments can contribute money to this welfare fund. With these words. Madam, I support the Bill. Thank you.

SHRI KA. RA. SUBBIAN (Tamil Nadu): Thank you, Madam Deputy Chairman. I wholeheartedly welcome this Bill. I appreciate the hon. Minister for having brought forward this enactment. Since our hon. Minister was a leading lawyer, he thought it fit to bring this Advocates' Welfare Fund Bill. The intention of the hon. Minister has to be appreciated, because the Bill has been brought with the good intention of helping the indigent and disabled lawyers, taking into consideration the plight and pitiable condition

of these lawyers. I would like to request to the Minister to incorporate the meaning of 'Senior Advocates' in the definition clause. As far as the advocates in the High Courts and the Supreme Court are concerned, they are enlisted as senior advocates on the basis of their standing in the Bar. But, in the case of the advocates in the district and mofussil courts, they are not classified as such. Therefore, I would request the hon. Minister that in the Definition Clause, he should incorporate the senior advocates as those who have put in 20 years to 25 years of standing as lawyers.

Regarding the amount constituting the Welfare Fund, there are several categories specified under Section 3, sub-clause 1, sub-clause 2 and sub-clause 8. There it is said that the grant may be made by the Central Government or a State Government to the fund after the appropriation is made in this regard. Our leader, Dr. Anna mentioned in this august body, when he was a Member of the Rajya Sabha, that 'may' is not a forceful word. So, my request is that the word 'may' should be substituted by 'shall', to make it a mandatory provision.

That apart, my request is that the words, "to include the fund in the corpus, the Central Government or a State Government" should be deleted. Instead there should be a mandatory provision so that the Central Government as well as the State Government should contribute towards the Advocates' Welfare Fund.

As far as the constitution of the Advocates' Welfare Fund Trustee Committee is concerned, the participation of the lawyers should be made more liberal. At present only two advocates are nominated by the State Bar Council. Since this Act is for the welfare of the lawyers, their participation in number should be greater.

Finally, as far as my State is concerned, this scheme was introduced there as early as 1986 and an amendment to it was made in the year 1995. On the death of an advocate, a sum of Rs.1/- lakh was paid to the legal heirs. On his cessation of practice, the advocate was paid Rs.50,000/-. When our great leader, Dr. Kalaignar, was the Chief Minister of the State, he brought in an amendment in the year 2,000 to the effect that on the death of a lawyer, his family and his legal heir are entitled to Rs.2/-lakhs while on the cessation of practice of a lawyer, he is elegible to get Rs.1/- lakh.

Since 16 States have already adopted this welfare fund measure and you are passing it to be made applicable to all the States uniformly,

keeping in view the prevailing cost of living, I would request that the Central and State Governments should contribute to the Fund and that a uniform code should be there, whereby on the death of a lawyer, the heir of the deceased should get Rs.5/- lakhs and on the cessation of practice of an advocate, he should get at least Rs.2.5 lakhs. The welfare measures should be made applicable uniformly, irrespective of the fact whether the advocate is senior or junior. That should be made applicable throughout the country so that the lawyers and their families can be benefited. Madam, with these words. I conclude. Thank you.

THE DEPUTY CHAIRMAN : I should inform the Members that each Member is having only two minutes. Sarojji, you must be having a lot of good material. But, unfortuntely. the time allotted to this Bill is only one hour. So, you have only two minutes. ...*(interruptions)*... You also had two minutes, but you did not listen.

श्री एस०एस० अहलुवालिया (**झारखंड**): मैंडम, दो मिनट में क्या बोलेंगे।

उपसभापति : यह तो लीडर्स को सोचना चाहिए जो बिजनेश एडवायजरी कमेटी में समय तय करते हैं।

श्री एस०एस० अहलुवालिया: मैंडम, यह बड़ा महत्वपूर्ण बिल है

THE DEPUTY CHAIRMAN :Yes; I know your name is there. आप भी बोलना चाहते होंगे। सब एडवोकेट बनना चाह रहे हैं।मुझे कोई एतराज नहीं है। श्रीमती सरोज दुबे।

श्रीमती सरोज दुबे(बिहार)**:** माननीय उपसभापति जी अधिवक्ता कल्याण निधि विधेयक 2001 के माध्यम से देश के हजारों अधिवक्ताओं के मन में माननीय मंत्री जी ने एक आशा की किरण जगाने का अच्छा का प्रयास किया है मैं उन के इस सराहनीय कदम का समर्थन करती हूं लेकिन मैडम, एक तरफ तो यह विधेयक बड़ी उम्मीद की किरण जगाता है दूसरी तरफ मन में बहुत सी शंकाएं भी पैदा करता है इस विधेयक में कहीं यह स्पष्ट नहीं कि उनके इस वेलफेयर फंड का दुरुपयोग किस प्रकार रोका जा सकेगा। यह विरोधाभास इस बिल में है। मैडम, जब भी कोई नया अधिवक्ता अदालत की दुनिया में कदम रखता है तो इसके सामने बड़ी अनिश्चितताएं रहती हैं तमाम योग्यताएं और कानूनी ज्ञापन से सज्जित होने के बावजूद यह तय नहीं रहता है कि वह सफलता कि सीढ़ी पर कदम रख पाएगा या नहीं।वहीं मैडम जो व्यक्ति इस पेशे मैं कमजोर तबके से आते हैं और जो हिंदी मीडियम से पढ़कर आते हैं उनको अदालत के कामकाज में और भी मुश्किल होती है । इसलिए मैं माननीय मंत्री जी से कहना चाहूंगी कि आप ने जो लॉ की बुक्स देने की बात कही है उस में कुछ हिंदी की पुस्तक भी होनी चाहिए ताकि जो अधिवक्ता हिंदी मीडियम से पढ़कर आते हैं उन्हें हिंदी तथा अन्य रीजनल लेंग्वेज की पुस्तकों के द्वारा लॉ मटैरियल पढ़ने का मौका प्राप्त हो सके क्योंकि जो लोग कानून के माध्यम से लोगों को न्याय दिलाते हैं , अगर उन के दिमाग में काम करते समय तनाव होगा तो वह ठीक से काम नहीं कर सकते हैं।

3.00 P.M.

मैडम , इस पेशे से जुडे लोगों को कोई सामाजिक सुरक्षा भी नहीं है । अगर किसी वकील की अल्प-आयु में आकस्मिक मौत हो जाती है तो उस के पास न तो कोई प्रोवीडेंट फंड होता है न कोई बीमा होता है और न उस के पास कोई दूसरी सुविधा होती है जिस कारण उस का परिवार भुखमरी की कगार पर चला जाता है । मैडम , जब कोई नया वकील इस पेशे में आता है तो उसे गला काट प्रतियोगिता में निर्धनता के कारण बिना किसी हथियार के उतरना पड़ता है जिसके कारण केवल वही लहू-लुहान नहीं होता बल्कि उस का परिवार भी लहु-लुहान हो जाता है । उस के लिए कचहरी में बैठने की जगह तक नहीं होती है जिस कारण नए वकीलों के कोट का रंग से बदरंग हो जाता है । आज बेरोजगारी के युग में जिसको रोजगार नहीं मिलता वह वकालत के पेशे में आ जाता है इस कारण हर साल हजारों की संख्या में वकील बढ़ते जाते हैं . मैडम , इस बिल के सेक्शन 19 में कहा गया है कि कुछ खास गंभीर बीमारी होने पर उन्हें आप एक्स ग्रेसिया ग्रांट देंगे । यह बहुत अच्छा कदम है लेकिन इस में यह स्पष्ट नहीं है कि आप इस में किस श्रेणी के वकीलों की मदद करेंगे । क्या लाखों रुपयों में खेलने वाला वकील भी एक्स ग्रेसिया ग्रांट लेगा ? अगर आप इस के संबंध में स्पष्ट प्रावधान नहीं करेंगे तो इस धनराशि को कोई छोड़ने वाला नहीं है औऱ ज्यादा-से-ज्यादा लोग इस धन का लाभ लेने लगेंगे। इस में जिन लोगों को वास्तव में इस फंड की जरूरत होगी , उन को वह धनराशि नहीं मिल पाएगी वहीं कुछ लोग जबर्दस्ती इस फंड से धनराशि ले लेंगे। मैंडम , वकीलों की भी हमारे यहां कई श्रेणियाँ है सामान्य श्रेणी ,अति सामान्य श्रेणी ,मध्यम वर्ग श्रेणी, संपन्न वकील और अति संपन्न वकील । जब तक आप उन्हें कैटगराइज नहीं करेंगे तो आप के इस फंड का दुरुपयोग होगा और बहुत से जरूरतमंद वकील इस राशि का लाभ नहीं ले पाएगे। इस विधेयक में महिला अधिवक्ताओं के बारे में एकदम खामोशी अख्तियार कर ली गई है। महिलाओं की संख्या दिन-प्रतिदिन इस क्षेत्र में बढ़ती जा रही है । इसमें कहा गया है कि महिलाओं को यदि लेप्रोसी हो जाएगी , केंसर हो जाएगा, टी.बी. हो जाएगी तो उन्हे बेनिफिट मिलेगा लेकिन आपने इसमें मेटरनिटी बेनिफिट की कोई चर्चा नहीं की है आपको इसमें मेटरनिटी बेनिफिट की भी चर्चा करनी चाहिए थी। मैं इसके साथ साथ कहना चाहती हूं कि महिलाओं के लिए क्रेच का भी इंतजाम होना चाहिए । महिलाएं बेचारी जब बच्चे हों जाते हैं तो घर में काम करने लगती है कोर्ट नहीं जा पाती हैं । अगर वहां क्रेच की व्यवस्था का भी इसमें जिक्र हो जाता इसके लिए भी फंड हो जाता है तो महिलाएं वहां आकर वकालत भी कर लेती, अपना परिवार भी देख लेती । इसी तरह से मैं कहना चाहती हूं कि अगर कोई परित्यक्ता विधवा है और अगर उसकी मृत्यु हो जाती है तो उसके बच्चों पर आपको विशेष ध्यान देना होगा क्योकि जो महिला परित्यकता होती है उसके परिवार का कोई साथ नहीं देता है घटनाएं होती है तो विधवा और परित्यक्ता महिलाओं के लिए आपको चाहिए कि आप इसमें एक अलग फंड रखें ताकि ये महिलाएं आजाद होकर वकालत कर सकें ।

धारा 21 में आपने लिखा है 'ऐवरी ऐडवोकेट' मतलब हर ऐडवोकेट आपके फंड से सहायता ले सकता है। हर ऐडवोकेट में तो जैसा मैंने कहा कि सम्पन्न अतिसम्पन्न सब आ जाते है आपने इसमें प्रावधान किया है कि मैम्बरशिप के बाद वकील वकालत छोड़ देता है तो उसको 1000 रूपया मिलेगा । 30 साल के बाद अगर आप वकालत छोड़ते हैं तो 30,000 रूपया मिलेगा। अगर 50 साल की उम्र में उसको 30,000 रूपया मिलता भी है तो उसके कोई मायने

नहीं होते और जिस प्रकार से दिन-प्रतिदिन रुपए की वैल्यु घटती जा रही है , उसमें भी वह उचित नहीं रहेगा । तो मैं आपसे कहना चाहती हूं कि आप इस एमाउंट को बढ़ाइए और इस एमाउंट को बढ़ाने के लिए जैसा अभी चन्द्रकला जी ने कहा कि जो सीनियर ऐडवोकेट्स हैं जो लाखों करोड़ों में है , उनको भी एक जिम्मेदारी दे दी जाए कि वे इस वैलफेयर फंड में अपना योगदान करें। साथ ही साथ जो नए लॉयर्स आते हैं , उनको ट्रेनिंग देने का काम भी वे करें । जो नए लॉयर्स आ रहे हैं अगर आप उनको इस तरह से मदद करेंगे तो वे काम नहीं सीखेंगे उनको कोर्ट में अपीअर होने का मौका दिया जाए ताकि उनके अंदर भी ऐफिशिएंसी बढ़े । आप जानते हैं कि हाई कोर्ट और सुप्रीम कोर्ट के सीनियर लोग लाखों करोड़ों कमा रहे हैं , उनको भी चाहिए कि वे इसमें थोड़ी सी मदद दें और यह उनकी डयूटी भी हो जाती है कि वे नए वकीलों की मदद करें ।

साथ ही साथ जिन अधिवक्ताओं की आकस्मिक मृत्यु हो जाती है ,अगर मृतक के परिवार को आपने 20,000 दे भी दिया तो उसका कोई मतलब नहीं है । मेरा आपको एक यह भी सुझाव है कि अगर किसी वकील की अल्पायु में मृत्यु हो जाती है तो जिस तरह से सरकारी नौकरियों में प्रावधान है कि अनुकम्पा के आधार पर परिवार के किसी सदस्य को नौकरी दी जाती है ऐसा प्रावधान इसमें भी होना चाहिए क्योंकि कम उम्र में अगर मृत्यु हो जाती है तो उसके बच्चे छोटे होते हैं। इसलिए उसकी पत्नी को या घर के किसी अन्य सदस्य को बार कांउसिल में,कचहरी में या लॉ डिपार्टमेंट में नौकरी देने की आपको व्यवस्था करनी चाहिए ताकि आप जिस उद्देश्य से इस बिल को लेकर आए हैं वह उद्देश्य पाने में सफल हो सकते हैं । और आप जो वकीलों की मदद करना चाहते हैं , वह मदद उन्हें मिले ।

आप ने जो सिविल कोर्ट में क्रिमिनल कोर्ट में ट्राइब्युनल में वैलफेयर स्टाम्प के बारे में कहा , इस बारे में मेरा कहना यह है कि इसका स्कोप बहुत व्यापक कर देना चाहिए । जहां भी वकालतनामा लगता हो चाहे वह एस.डी.एम. की अदालत हो चाहे तहसीलदार की , हर जगह जहां भी स्टाम्प लगे वहां पर आपको वैलफेयर स्टाम्प की सुविधा दे देनी चाहिए । आपको अपना फंड बढाना होगा और फंड का भी एक बंटवारा करना पड़ेगा कि किस आमदनी के क्षेत्र तक आप किस तरह से उसकी मदद करेंगे । कहीं ऐसा न हो कि लोग यह समझें कि वैलफेयर फंड से बहुत पैसा मिल रहा है तो जबर्दस्ती आकर वे काला कोट पहन लें और आपसे सुविधा लेने लगें । इस बारे में भी आपकी सतर्क रहना होगा ।बिहार में भी वैलफयर फंड बहुत अच्छा काम कर रहा है , उत्तर प्रदेश में भी काम कर रहा है , केरल में भी काम कर रहा है वहां पर भी हर वकील को मदद नहीं मिल पाती है . तो एक ऐसा नियम-कानून आप बना दें कि हर जरुरतमंद वकील को मदद मिले । किसी फालतू को न मिले लेकिन हर जरूरतमंद वकील को मदद मिले और उसे यह अहसास न हो कि उसको दान-खाते में से दिया जा रहा है । उसको उसकी आवश्यकता के हिसाब से दिया जाए और महिला वकीलों के लिए खास तौर से विशेष ध्यान रखा जाए क्योंकि इस श्रेणी में इस क्षेत्र में वे बड़ी तेजी से पदार्पण कर रही हैं ।

आपके इस बिल का मैं स्वागत करती हूं और मुझे उम्मीद है कि इसके पास होने से जो बहुत से निर्धन और जूनियर लॉयर्स हैं , उनको फायदा होगा ।

अंत में मैं एक बात और कहना चाहती हूं कि जिला कचहरी में तो लाइब्रेरी होती है लेकिन तहसील में लॉ बुक्स बिल्कुल नहीं होती है . हम लोग अपने क्षेत्र में जाते थे तो नौजवान वकील कहता था कि साहब , कुछ किताबें दिलाया दीजिए हमारे लिए ।तो हम लोग उनको अक्सर

अपने पास से किताबें दे दिया करते थे। अगर नए लड़को की आपको हैल्प करनी है तो तहसीलदार , नायब तहसीलदार के अलावा बाकी जगहों पर भी आपको छोटी-छोटी लाइब्रेरीज़ बना देनी चाहिए ताकि लोग वहां पर आकर पढ़े और अपना ज्ञानवर्धन करें । अगर वे अपना ज्ञानवर्धन नहीं करेंगे तो वकालत नहीं होगी । इसलिए पुस्तकें बहुत जरुरी है । पुस्तकें ही ऐडवोकेट का हथियार हैं । अगर आप उनको ये पुस्तकें मुहैया करा दें तो वकील बहुत सारे काम कर सकेगा । मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करती हूं । धन्यवाद।

उपसभापति : मंत्री जी, इन्होंने बात अच्छी उठाई कि महिलाओ का आप ध्यान नहीं रखते हैं । आप बिल ले आते हैं शादी के , डाईवोर्स के । महिलाओं को आपको प्रोटेक्शन देना चाहिए ।

संसदीय कार्य मंत्री तथा सूचना प्रौद्योगिकी मंत्री (श्री प्रमोद महाजन): 33 परसेंट मिलना चाहिए ।

श्रीमती सरला माहेश्वरी: इनकी जिम्मेदारी बहुत है । कब ला रहे हैं वह बिल , यह बता दीजिए।

श्री प्रमोद महाजनः उसी के लिए खड़ा हूं ।

श्रीमती सरला माहेश्वरी : बोलिए , आज बता ही दीजिए ।

श्री प्रमोद महाजनः उपसभापति महोदय . मैं प्रार्थना कर रहा था कि अगला बिल कृषि मंत्री जी का है लेकिन लगता है कि यह चर्चा अभी आधा-पौना घंटा और चलेगी । यदि आपकी इजाजत हो और सदन यदि अनुमाति दे तो इस चर्चा को हम 4 बजे तक ले जाए । फिर 4 बजे हमें पी.डी.एस. पर चर्चा करनी है। ...(**व्यवधान**)...

श्री कपिल सिब्बल (बिहार)**:** कृषि मंत्री जी का बिल सोमवार को ले सकते हैं ।

श्री प्रमोद महाजन : मंत्री जी को मंगलवार को सुविधा रहेगी ।

श्री कपिल सिब्बल : ठीक है मंगलवार को ले सकते हैं ।

उपसभापति : वैसे भी यह बिल बहुत महत्वपूर्ण है । बहुत से लोग पढ़कर नहीं आए है यह बहुत मोटा बिल है इसको स्टडी करना पड़ेगा। फिर राईस का भी झगड़ा हुआ है ।

श्री प्रमोद महाजनः ठीक है यह बिल हम मंगलवार हो ले लेंगे।

श्री दीपांकर मुखर्जी (पश्चिमी बंगाल) **:** मंगलवार से पहले बासमती पर स्टेटमेंट भी आ जाएगा ।

श्री प्रमोद महाजनः उसकी खुशबू मुझे कब से आ रही है । वह स्टेटमेंट रेडी है ...(**व्यवधान**)...

उपसभापति : अच्छा , आप लोग खामोश तो रहिए । महिलाओं का बिल नहीं आएगा । आप उसकी चिंता मत करो , वह बिल कोई लाने वाला नहीं है, they are not serious, nobody is serious, we will have to start our compaign strongly.

श्रीमती सरला माहेश्वरी: महोदय आप तो सीरियस हैं , हम भी सीरियस हैं।

उपसभापति : मेरे हाथ में बिल होता तो मैं आज ले आती ।...(**व्यवधान**)... यह बोलने की बात नहीं है , यह रिजर्वेशन की बात है। यहां कितनी कम महिलाएं है और कितना अच्छा बोली हैं दोनों । Both of them spoke very well.

एक माननीय सदस्य: सिर्फ आप लालू जी को समझा दीजिए।

उपसभापति : वह तो वही समझाएंगी ।

श्रीमती सरोज दुबे : लालू जी बिल लाने के लिए मना नहीं कर रहे हैं । हम तो यह कह रहे हैं कि उसमें बैकवर्ड क्लास और माईनॉरिटीज के लिए भी आरक्षण होना चाहिए ...(**व्यवधान**)...

उपसभापति : अच्छा , अभी यहां झगड़ा मत शुरू कीजिए महिलाओं के बिल का ।

The main thing I want to say is that, at four o'clock, we have a discussion on the PDS, which we have to start. Now, if we give more time here, there will be a problem. Mr. Minister, how much time will you take? मंत्री जी , आप इसका जवाब देने में कितना टाइम लेंगे?

SHRI ARUN JAITLEY : Madam, not much. We will try to finish it before four o'clock.

THE DEPUTY CHAIRMAN: Will you take ten minutes?

SHRI ARUN JAITLEY: Yes, Madam.

THE DEPUTY CHAIRMAN: Okay. Then accordingly, I will allow the Members. We have forty-five minutes, आप सब उसी टाइम में बोलिए । यह नहीं कि जो अच्छे वकील है वे 50 मिनट ले लें जैसे 10-10 साल लेते हैं केस लड़ने में और जो बेचारे गरीब वकील हैं वे भूखे मरते रहें ऐसा नहीं होना चाहिए...(**व्यवधान**)... Shri Ravi Shankar Prasad.

SHRI RAVI SHANKAR PRASAD (Bihar): Madam Deputy Chairperson, I am immensely grateful that you have allowed me the opportunity to speak on a Bill of such great importance, on which there is an emotional involvement too, having come from that profession.

Madam, today, I wish to start my submission with a personal note, the hon. Law Minister of the country, Arun Jaitley, has been gracious enough to give his friendship to me over the years. We were together in the same movement. Thereafter, he rose to become a top man of the country. I used to mention to him the plight of the lawyers in the country, particularly in my State, but he used to raise a very fundamental objection, namely,

"Would the lawyers lose their independence because of these measures?" We are also belonging to an independent profession. When I told him the ground reality, he was, again, understanding enough to appreciate the need for such a legislation, and today, it is, indeed, a great moment that Mr. Jaitley is the Law Minister of the country, and he is piloting this Bill. Therefore, a wish, Ipng-standing, today is being realised.

Madam Deputy Chairperson, there is always a double image of lawyers. On the one hand, we see the lawyers of the Supreme Court, of Delhi High Court, of Bombay High Court, of all big High Courts, earning good money for good reasons. But the plight of lawyers at the mofussil level rarely comes to our notice. I am sure, all of my very eminent, senior, friends, sitting here-Mr. Jethmalani, Mr. Nariman, Mr. Kapil Sibal-would appreciate that the condition of lawyers at the mofussil level is really very pitiable. There is not only lack of amenities, there is not only lack of provision, but there is lack of earning capacity as well. When we go to the remote districts, we see the pitiable conditions. There are times when one really feels very sorry about that. Madam, what is the image of lawyers in a society? I do not have to tell you; you have been part of that legacy of the freedom movement. What role lawyers played in the freedom movement! At times, we were trying to see the history of the country, who was not an eminent lawyer who became a leader of the freedom movement. And, Madam, I could recall only two names-Netaji Subash Chandra Bose and Maulana Abul Kalam. Except these two, all the top leaders of the freedom movement were powerful lawyers as well. People viewed the lawyers in that particular perspective, but, over the years, the times have changed, the aspirations have changed, a whole lot of other vocations have come about-civil service, medical profession and other professional activities, and in comparison, the legal profession, as a status, has gone down so far as the possibilities are concerned. Therefore, today, I am very happy to note one thing, Madam. When I see a consensus, a rare consensus, that all of us, all the Members are supporting, irrespective of their party. There is a need to recognise that lawyers need to be helped. That is a very welcome development; I highly appreciate it.

Madam, today, I take this opportunity--I hope the hon. Minister would be listening to my caution which I am going to administer-to tell you what the condition of legal education is. That is very important, Madam, because if we come out with a welfare measure for lawyers, the society is also going to ask certain questions about the intake of lawyers in the

profession. Unfortunately, what is the position today? Let me share a very frank assessment, that a person who could not get any avocation elsewhere becomes a lawyer! That is the hard reality at the mofussil level. Maybe, good lawyers are coming to the Supreme Court; maybe, people with good academic background are coming to the High Court, but at the mofussil level, the situation is very pitiable. मैडम , अगर मैं इसको हिंदी में बोलूं कि जिसको कहीं कोई नौकरी न मिली वह वकालत का काला कोट पहन लेता है । यह सच्चाई है आज । Because I wish to take this opportunity to do some self, soul-searching, and I want to request the hon. Minister that while this measure is very, very welcome, there is need also to come out with some kind of instrument so that this kind of reckless recruitment in the legal profession is also checked. How you will go about it, I don't want to share anything with you at the present moment. But if some welfare measures are coming, the accountability of us, the lawyers, as a profession, would grow enormously. There are two rationales behind this whole instrument. Unlike the Chartered Accountants, unlike the medical fraternity, unlike the architects, the lawyers, as a community, till date, do not have any welfare cover. There is a mention of many other State legislations. But there is one unique feature which the hon. Minister has highlighted and which needs to be re emphasized, that is, clause 27. It says that the load of this source of tunc, should not be transferred to the litigant. May I read clause 27 for a moment? It mentions about the five rupees' stamp on the Vakalatnama in the District Court and the ten rupees' stamp on the Vakalatnama in the High Court. An advocate has to fix that stamp. Sub-clause (2) of clause 27 says, "The value of the stamp shall neither be the cost in a case nor be collected in any event from the client". Clause 27(3) says, if there is any contravention, the lawyer forfeits the right to get the benefit. There is a penal clause. I think it is a very salutary provision which needs to be appreciated, namely, that the cost of this Fund is not being shifted to the clients. It is a very laudable aspect that a mechanism has been found by the lawyers themselves. I need to congratulate the hon. Minister on that aspect.

I have two more caveats to administer and I am done. Let me begin with clause 19. In the case of hospitalisation, surgical operation and other kinds of illnesses, you have made a provision for payment, if there is any claim. But nothing is there about the death part. Under clause 21, If he dies, according to the number of years of practice he has put in, his heirs would be entitled to that amount. The First Schedule is there. I don't want to say anything further except that if there is any scope for

enlargement of the amount, it would be in order. Anyway, the point is that in the event of death, there is no provision for anything except Group Insurance under clause 24. Is it possible, at least, to look into this apprehension which I am sharing with you, hon. Minister?

The second aspect is that there is no provision for any medical care to the lawyers except the amount available from the Fund under clause 19. Is it possible to have a medi-claim in the Group Insurance because clause 24 straightforward talks of the Group Insurance part. It does not talk about the illness part. Only these two aspects I want to highlight for your kind consideration.

Madam, I would, again, like to emphasis that this Bill is very timely. This Bill is long overdue. This Bill needs to be implemented with proper caution. I would, certainly, like to request the hon. Minister that the entire quality of the legal profession, the intake in the profession, the manner in which the legal institutions are mushrooming all over the country, needs much to be desired. I must say it very clearly. All of us are concerned with that. If lawyers, today, are an important component of justice delivery system, the quality of lawyers has to be good. That is also an aspect which needs your consideration. I need to congratulate the hon. Minister for this extra-ordinary measure and I am very happy that the entire House has risen in support of this Bill. I am grateful to you for giving me this opportunity, Madam. Thank you.

श्रीमती जमना देवी बारुपाल(राजस्थान)**:** मैडन , मैं दो शब्द कहना चाहती हूं ।

उपसभापति :अभी एक मिनट बीच में नहीं बोलिए। I am not allowing you. Nothing will go on record. ...*(Interruptions)*... This is not the way. A proper discussion is going on. ...*(Interruptions)*... Nothing will go on record. I don't like this unruliness. ...*(Interruptions)*... नो, बैठ जाइये। आप अगर बोलना चाहती है तो पहले नाम दीजिए । हाउस में ऐसे नहीं बोलते हैं । यह बोलने का कोई तरीका नहीं है। आपको बोलना है तो आप जरुर बोलिए । आप नाम भेज दिजिए . मैं लिख लूगी . मगर ऐसे खड़े होकर रोज इस तरह से करेंगी तो यह नहीं चलेगा । यह मैं सबके लिए कह रही हूं आपके लिए ही नहीं कह रही हूं । अगर आप रोज खड़े होकर इस तरह से करेंगे तो यह नहीं चलेगा । मैं सबके लिए कह रही हूं , आपके लिए ही नहीं कह रही हूं । Because I have so many names before me. Mr. Minister, I have to say one thing. You have used a very gender-biased language. In clause 18 (8), you have used the word 'his'. Just now Shrimati Saroj Dubey was talking about gender bias. There is no provision for women advocates and then you have compounded it by putting the

word 'his'. You have to change it. While framing rules, you take care of it. सब जगह देख लीजिएगा।

SHRI P.G. NARAYANAN (Tamil Nadu): The role of an advocate is instrumental in the administration of justice. Admittedly, the legal profession is facing a crisis. Lawyers have to maintain their professional integrity also. So the legal fraternity and the legal profession are part and parcel of our legal system. The Government will have to recognise that the profession of lawyers is a noble profession. The Bill refers to the welfare of advocates. But the Government is not contributing anything for the welfare of advocates. The Government has nominated the Law Secretary and the Home Secretary to govern the fund for advocates. I would like to submit that sufficient representation has not been given to the lawyer community.The lawyer community is not duly represented on the Bar Association. At least, two members of the respective Bar Associations of the States must be nominated to the Bar Association. Without making such a provision it cannot be said that the scheme of things is entirely meant for the benefit of the lawyers. The legal profession has not been given its rightful place in the scheme of things. Only 20 per cent of the lawyers are doing regular practice in courts. Rest of the lawyers are earning a very meagre amount which is not sufficient for their livelihood. It is very difficult for them to look after their families with such a negligible and meagre income. We should do something for the welfare of the advocates. The Bill has a limited scope. The Government should come forward with a comprehensive Bill. This Bill has been brought forward with good intentions to render social security by way of financial assistance to the young and other lawyers. A special provision should be made for the establishment of a Bar Association library and for providing facilities to purchase books. A special provision should be made for the welfare of the advocates. Madam, an advocate gets only Rs. 30,000 after putting in 30 years of service. The amount is very meagre. It should be enhanced from Rs. 30,000 to Rs. 3 lakhs because the value of money is declining day by day. I appeal to the hon. Law Minister to treat the lawyers with dignity, not as third-rate citizens. I urge upon the Government to bring another comprehensive Bill for the welfare of the lawyers.

SHRI FAU S. NARIMAN (Nominated): Madam Vice-Chairman, I, originally,did not intend to say anything with regard to this because I don't think lawyers should support themselves. But I do venture to submit that this isa social welfare legislation, claiming no support from the State, and I am

glad that it claims no support from the State. The reason why a measure like this has been introduced is, because, in the Bar Association of India, we received a large number of representations from lawyers throughout the country. Now, these advocates really represent the cross-section of the entire populace; some of them are very well-off, many of them are not well-off at all, and others are positively poor. And, as Mr. Palkiwala used to tell us, when he gave lectures to us in the Government Law College in Mumbai, "God pays, but not every Saturday." And, for some lawyers, God does not pay them even on one out of 52 Saturdays in a year. So, this is the state of affairs of the lawyers whose plight is representative, really, of a cross-section of our entire country, and this is unfortunate. Why people do become lawyers or why they don't become lawyers is a different matter. As my learned friend said, they want to become lawyers, probably, because they have nothing else to do. Perhaps, I must confess that fifty years ago, I joined the profession precisely on that footing, because I had nothing better to do. I must confess that. And many people do the same now. Seriously speaking, I, personally, feel that the key provisions in this Bill are clauses 19 and 24 which state how you help the lawyers along the way, not so much when they stop practicing, etc., which is all right. This is a very, very important circumstance. We used to get representations - we stiU get it in the Bar Association; we still get it in the Supreme Court -- from our people, who are not able to afford various needs because they are impecunious; their children have to be taken to hospitals and they do not have the money to provide for them. And, that is a very important circumstance. That is why, we should see how to support an advocate, as he gets along, because he or she does not get paid on a regular basis, and I am very glad, Madam, that you drew the attention of the Minister, during this discussion, about the feminist sort of version that we keep propagating and mentioning 'he'. But it is true that there are a large number of women lawyers who also need that particular support. I have only two bullet points for the consideration of the hon. Minister. First is that the amounts which have been set out here are really not sufficient to provide for all the needs which we envisage in clauses 19 and 24, and I very strongly recommend to him that since there is a provision for voluntary donation under Section 3, perhaps, a corpus can be built out of that voluntary donation. I don't want to go to the State; I don't want to go the Centre. I want to go to the lawyers themselves. It is we who have to provide for it, and I, personally, believe that after this Bill is passed, a letter from the hon. Minister should be sent to all the lawyers in the country who, in his opinion, could afford to

contribute to the corpus, and, perhaps, that would form the very basis of a very large nucleus, which would be helpful. The second thing which I would like the hon. Minister to bear in mind is that although this Act applies to the whole of India, there is a last provision in this Bill which says that it will not apply to the sixteen States where there are the State Welfare Acts. And, I would request that some investigation should be made, of course, after this Bill is passed and it becomes a law, as to how well these State Acts are performing *vis-a-vis* the Central Act, and to draw the attention of trie State Governments to the lacunae which may be there in the State Acts, which need to be removed. Lastly, this piece of legislation will, perhaps, serve as a precedent or a showpiece for other professions, such as Chartered Accountants, doctors, etc., where a similar situation persists. We can, perhaps, use this as a precedent for all the professions in the country, which can get together and attempt to support themselves, support their own brethren and sisters with regard to these welfare activities. Thank you.

THE DEPUTY CHAIRMAN: The Law Minister gave me a note which says that under the General Clauses Act, 'he' embraces 'she'...

SHRI FALI S. NARIMAN: He is only being legalistic.

THE DEPUTY CHAIRMAN: But he does not say, 'includes'; he says, 'embraces'...

SHRI KAPIL SIBAL: Madam, it should be remembered that the General Clauses Act is also anti-feminist.

THE DEPUTY CHAIRMAN: Now, Shri Kapil Sibal.

SHRI KAPIL SIBAL : Madam Deputy Chairperson, first of all, I must congratulate the hon. Minister for having showed his sensitivity towards the cause of members of the legal fraternity and for having thought of their welfare

Having said that, I also feel, as I read this legislation, that it will be yet another piece of legislation which really will not effectively help the cause of the legal community, until and unless members of the legal community decide to help themselves, as Mr. Nariman has said. The welfare of members of the legal community is really the responsibility of those of us who are its members. I do not see this particular legislation by itself serving the cause of welfare of the legal profession.

And the reason why I say that, Madam, is that there are three recurring sources of income of this particular fund which is being set up under this Bill with reference to various appropriate governments. One is the application money which is an amount of Rs.200 for each applicant. The second is the annual recurring fee, which is Rs.50. The third is the *wakalatnama* fee or the fees to be affixed to each power of attorney which, with reference to district courts, is a sum of Rs.5/- and, with reference to the superior courts, a sum of Rs. 10/-. Let us analyse this by taking an example, and the hon. Minister is probably very familiar with this. If we look at the Supreme Court, you will find that not more than 500 to 700 members of the legal profession actively practise at the Supreme Court. The membership is about 3,000. But a lot of people, who are members of the Supreme Court Bar Association, are also members of other bar associations. So, those who are exclusively practising in the Supreme Court and are members of the Supreme Court Bar Association, are about five hundred to seven hundred. But I will take the figure as 1000. For 1000 people to be members of this fund, with an initial application fee of Rs.200, you have a sum of Rs.2,00,000. With a sum of Rs.2,00,000, and let us take an annual subscription of Rs.50 per member, you have Rs.50,000 every year. So. there are Rs.2,00,000 at the initial stage and Rs.50,000 every year. This, to serve 1000 members of the legal fraternity, will not work. It is too little. I am not saying that the legal fraternity should be subsidised. But what I am saying is, if the objective of this legislation is to serve the welfare of the members of the legal profession, these kinds of sums especially when you are talking about grants, when you are talking about, under section 19, *ex-gratia* grant by the trustees committee, in case of hospitalisation, major surgical operation, paralysis, cancer, tuberculosis, leprosy are too little. Madam, I don't want to make this discussion personal. I have had several members of the legal fraternity coming to me; somebody is suffering from cancer; the expense of treating cancer is phenomenal. It is the same with tuberculosis. No bar association with these kinds of sums two lakhs to two-and-a-half lakhs of rupees even if there is an addition of Rs.50,000 every year, is going to be able to help the members of the legal fraternity in any substantial way. Now, with 1000 membership, if you look at the level of the Supreme Court and then you go to the mofussil level, the active people practising there will not be more than 200 and 200X200 rupees is Rs.40,000.

What is forty thousand rupees going to do for them? Now, it is not as if the associations are all put together and made one State Bar Association. You will have the Central Administrative Tribunal in Delhi; you

will have a separate association for the MRTP Commission. You have a separate association for the Customs and Excise Tribunal. You have a separate association for the Income-tax Tribunal, for the Sales-tax Tribunal. How many members will be in that association? Fifty, sixty, hundred? And, if each of them gives Rs.200, what sum do you get? Twenty thousand rupees, twenty-five thousand rupees? Is that any sum at all to play around with, for the welfare of the legal community? The answer is 'no'. ...*(Interruptions)*... No, no. That is five rupees or ten rupees. Supposing, there are 20000 cases filed in the Supreme Court; you have another Rs.2 lakh a year. What is five lakhs of rupees, to serve a thousand members of the legal profession? And, if you have 50 members of an association, or, 100 members in a moffusil; all right, how many cases will you find in a moffusil? Five hundred, thousand, five thousand? 5000 x 5 rupees is what? Rs.25,000. I appreciate the intent of the legislation; I appreciate the sensitivity of the Minister; I appreciate the fact that you want to do something for the members of the legal fraternity. But when this legislation gets passed, it should not be as if these very associations come back to us and say, "You are trivialising the needs of this profession by giving us these paltry sums". What we need to do is, perhaps, to increase that ten rupees fee to a larger sum. I am not saying you do it today, because I think, we have to pass this Bill as it is a step forward. But, I hope, in the times to come, the Minister himself or the Government will move amendments to this piece of legislation, depending on the experiences that we have had with respect to the legislations in the 16 States; and, maybe, in the light of that experience, we can move amendments to improve the situation further. But I am just bringing this to your notice. I will give you another example. You have mentioned here that senior advocates should pay a sum of thousand rupees. I think, that is too little. But, assume, they pay a thousand rupees. As it is, senior advocates never file a *wakalatnama,* as you know, and senior advocates are excluded from all the benefits under this Bill. He cannot get *ex-gratia* payment. Yes; I will read the provision of the Bill. 'No senior advocate or a person in receipt of a pension from the Central Government or the State Government shall be entitled to *ex-gratia* payment under section 19. So. he is not entitled to *ex-gratia* payment or payment of amount on his cessation of practice. That he is not entitled to. under section 21; or any benefit under clause (a) or clause (b) or clause (c) of section 24. And Section 24 talks about life insurance and other things. So, he is excluded from all benefits. But let us say, he becomes a member of the Fund and he contributes a thousand rupees at the initial stage, and thousand rupees, say, every year. Now. normally, an

advocate becomes a senior advocate at the age of 45 years, say, on an average, and he has practised for 30 years. At the age of 75, he has practised for 30 years, and he has invested Rs.30,000, by making every year a contribution of thousand rupees. At the age of 75, he will get back Rs.30,000. That is all that will happen. So. senior advocates contributing thousand rupees, at the end of 30 years, will have lost money. He gets no benefit because he is not entitled to any benefits under this Bill. He is excluded from section 19; he is excluded from section 24, subject, of course, to the provision that the Trust Committee may, for the welfare of the members of the Fund, obtain from the Life Insurance Corporation of India or any other insurer, a policy of group insurance. Now, that is something that will depend on the Trust Committee. Provided senior advocates get together to have a group insurance scheme, in which case, he will be benefited, but, in the absence of any of the schemes under section 24, he is not entitled to any benefits under this Fund. So, why should a senior advocate, in fact, contribute? In fact, I rather accept what Mr. Nariman has said and what he has suggested, that if you wrote a letter, we will be more than happy to make a contribution of large sums of money for the welfare of those needy lawyers who will have the benefit of a large corpus, the interest of which alone will help the needy lawyers of the country.

But to have this kind of a provision, with due respect to the hon. Minister, suggests that, in fact, not enough has been thought of, as far as senior advocates are concerned. Personally, I do not think it is necessary for senior advocates to take the benefits of this scheme because, I think, all of them are by and large fairly wealthy and have earned huge amounts for them to seek the benefits of such a scheme. Having said that there is another aspect that I want to draw the attention of the Minister to and that is the rates in Schedule I, given in clause 21(1) of the Bill. I invite the attention of the hon. Minister to clause 21 which says, "Every advocate who has been a member of the Fund for a period of not less than five years shall, on his cessation of practice, be paid an amount at the rates specified in Schedule 1." In other words, an advocate who joins this particular Fund at a point of time will have to wait for five years to get any benefit at all. That is all right because you need some period before which he can get the benefit. But at the end of the five-year period, what is the benefit that he is going to get? It is only Rs. 5000. At the end of 30 years, he gets only Rs.30.000. That is too little. There must be yet another way to devise an appropriate scheme with reference to each fund which gives larger benefits to members of the legal community. It is something which can be

discussed and, maybe, further amendments can be moved. Now, I invite the attention of the hon. Minister to clause 3, which, in fact, sets out the sources of this Fund that can be credited to this fund. You have amounts paid by the State Bar Councils under clause 15. I doubt if any State Bar Council will contribute any amount at all. Then the second, is any other contribution by a State Bar Council. I doubt very much whether they will make any contribution. In fact, the hon. Minister may enlighten us with reference to the contributions made by the State Bar Councils with respect to other pieces of legislations. Then the third is, any voluntary donation or contribution made to the Fund by the Bar Council of India I doubt that very much any State Bar Association, any State Advocates' Association or other associations or institutions, or any advocate or other persons. Here I accept the suggestion of Mr. Nariman. I doubt if State Bar Associations are going to make any voluntary contribution-Individual lawyers, maybe, but not any Bar Association. Now Mr. Jaitley, the hon. Minister, knows how difficult it is to get a simple resolution passed in a Bar Council, leave alone contribution to be made for this welfare fund. *(Time-bell)* I will finish in a few minutes.

THE DEPUTY CHAIRMAN: I have five more names before me.

SHRI KAPIL SIBAL: I will take only two minutes. ...*(Interruptions)*... Then I will finish in one minute. Then you have contribution by any grant which may be made by the Central Government or a State Government to the Fund after due appropriation made in this behalf. You can think of a scheme in which there is a grant which can be made by the Central Government to be returned. You may not call it a grant, but you may give it another nomenclature so that there can be a temporary borrowing and there can be a temporary loan for the purposes of dealing with the problems for the next five or ten years. And that is returnable. Of course, I know, how difficult it is to get back money from lawyers. I accept that. ...*(Interruptions)*...

SHRI ARUN SHOURIE: It will be another NPA. ..*(Interruptions)*... I just want to know one thing for my education because I belong to another indigent profession, of authors, of books. There is just one thing. Both ofyou are right because the amounts provided are paltry, when the things are very great services that are needed are very numerous and very expensive for things like cancer. But would accept that each of us who has a modicum of education would now be taking up health insurance schemes and so on, which are being provided by the nationalised institutions for insurance and for other purposes. Why is that not happening

...(Interruptions)... I am completely with you in wondering why they are looking to this fund to provide that assistance in many professions.

SHRI KAPIL SIBAL: I am only saying that if it is a genuine welfare legislation, then it does not meet the needs of the local fraternity. If it is only a kind of legislation which is on paper, which has another value, to that extent, I support it because I do not think pieces of legislations like this can take care of the welfare needs of the members of the legal fraternity, especially when the sums involved are so huge. I do not want to say anything more. With this, I support this Bill and I request the Minister to take into account all the suggestions made, maybe, at a later point of time, and if necessary, come with amendment to this piece legislation. Thank you very much.

THE DEPUTY CHAIRMAN: Now, I have five names with me. Mr. Rajiv Shukla, not present. Mr. Roy Chowdhury. You speak in short, because most of the points have already been covered.

SHRI SHANKAR ROY CHOWDHURY (West Bengal): Madam Deputy Chairman, we are fortunate that the Rajya Sabha comprises some of the best legal talents in the country and it has been extremely educative to listen to them, in the course of the discussion on the Advocates' Welfare Fund Bill, which has been passed by the Lok Sabha. The aim of the Bill is to provide for the constitution of a welfare fund for the benefit of the advocates. But, Madam, permit me to raise a few issues which concern me. I question the rationale, the philosophy and the concept of passing such a Bill. The Government of India, today, is taking time, money and effort to pass a Bill to benefit a particular group of professionals in our society! These are some of the most eminent and the most influential people in our society. Not withstanding that a special Bill The Advocates' Welfare Fund Bill, 2001 a similar Bill is already in vogue in 16 States tends to reinforce the perception that the lawyers, as a group, as a peer group, as a class, are little apart from the rest of the public and, perhaps, in some cases, a little above the law as well. We had a small taste of it not very long ago during a recent agitation in the Delhi courts, and it is quite clear that members of an influential professional group tend to take it as their right to be treated differently from the rest of us. I think, that is...

SHRI KAPIL SIBAL: Madam, I strongly protest. The hon. Member should not, without waiting for the result of an enquiry, which is pending, come to any conclusion in respect of the conduct of advocates with regard

to the recent incidents that took place. I personally request the hon. Member not to make any comments on that.

SHRI SHANKAR ROY CHOWDHURY: Madam, would you like me to withdraw my comments?

THE DEPUTY CHAIRMAN: The thing is: If any enquiry is pending and if we are waiting for the Report...

SHRI SHANKAR ROY CHOWDHURY: Madam, I withdraw my comments.

THE DEPUTY CHAIRMAN: Thank you.

SHRI SHANKAR ROY CHOWDHURY: But, nevertheless, it is a matter of *concern..(Interruptions)...No.* The matter of concern is something else. It is not pertaining to what I have said. The matter of concern is: There is no similar legislation, as yet, for other professional groups. Though my illustrious colleague, Mr. Fali S. Nariman, has said that this could serve as a model for a future legislation for other professional groups, I would submit, when that time comes, it is,welcome. But, for the time being, it is a unique legislation catering to a particular professional group. This is my basic point when I make this statement about this particular legislation that has been brought before the House. The Bill, as it stands, has been commented upon by Members of the legal profession, who have analysed it much more thoroughly than I could ever do.

But, nevertheless, I would like to again express my concern with regard to clause 27 of the Bill which deals with sale of stamps. Values have been given, and my learned and illustrious colleague, Shri Kapil Sibal, has commented on this in detail, but, nevertheless, I am uneasy. Though the proviso to clause 27(1) clearly mentions that "the value of the stamp shall neither be the cost in a case nor be collected in any event from the client" well and good in theory but, keeping in view the situation prevailing today in the legal infrastructure of the country, particularly, in the subordinate courts, in districts, tehsils, do you really think this will not be collected from the client? In conclusion, Madam, since the time is short I would say that as the Bill has been passed by the Lok Sabha and it enjoys wide support across the spectrum of the House, I shall not oppose it, but I am merely making my concerns known to the House. Thank you.

उपसभापति :श्री देवी प्रसाद सिंह , आप दो मिनट में अपनी बात कह दीजीए । उसके बाद मैं श्री प्रेमचन्द्रन को बुलाऊगी।

श्री देवी प्रसाद सिंह (उत्तर प्रदेश): धन्यवाद, मैडम। इस बिल को लाने के लिए मैं माननीय न्याय मंत्री जी को बधाई देना चाहता हूं। मैंडम, वकील क्लास किसी जमानें में निहायत सम्मानित क्लास कहीं जाती थी, वकील होना बड़ी प्रतिष्ठा और गौरव की बात थी और अच्छी नौकरियों को छोड़कर लोग वकालत करते थे। मैं जिस जमाने में वकालत के पेशे में गया वह जमाना भी यही था कि वकील होना एक सम्मानित व्यक्ति होना कहा जाता था लेकिन जिस बेरोजगार को काम नहीं मिल पाता है वह वकालत के पेशे में चला जाता है ऐसा समाज के लोग मानते हैं। जो वकिल के स्टेटस में गिरावट आई है, मिलने वाले सम्मान में कमी आई है। मैडम, मुझे यह कहने में संकोच नहीं कि आज वकील के स्टेटस में इतना कमी आई है कि अगर कोई लड़का वकालत के पेशों में गया तो उसकी शादी भी नहीं हो पा रही है उसकी उस माली हालत में गिरावट को देखते हुए हमारे मंत्री जी ने जो एडवोकेट्स वेलफेयर बिल इस सदन में प्रस्तुत किया है निश्चित ही मैं उन्हें हृदय से धन्यवाद देता हूं।

इसके साथ ही मैं न्याय और विधि मंत्री जी के ध्यान में एक बात और लाना चाहता हूं कि जब जब बार और बेंच की बात होती है तो कहा जाता है कि बार और बेंच न्याय रूपी रथ के दो पहिए है। ये दोनों पहिए न्याय रूपी रथ को खींचते हैं लेकिन देखने में यह आता है कि दोनों पहियों में बहुत असमानता है। एक पहिया बहुत बड़ा है और दूसरा पहिया बहुत छोटा है और इस कारण न्याय ठीक से चल नहीं पाता है लोग आरोप लगाते हैं कि मुकदमें लंबित किए जाते हैं, काफी दिनों तक चलते रहते हैं वकील एडजॉर्नमेंट ले लेता है , वकील केस को लिंगर ऑन करते हैं वकील कहते है कि जज साहबान तारीखें लंबी डाल देते हैं तो इन न्याय रूपी रथ के दोनों पहियों में एकरूपता लाने की क्या व्यवस्था होगी ? इस संबंध में मैं मंत्री जी का ध्यान आकर्षित करना चाहता हूं। मैडम, एक व्यक्ति ने बी.एल.बी. एल. किया और दूसरे ने भी बी.एल.बी. एल. किया एक अधिवक्ता तथा दूसरा न्यायधीश को बैठाने के लिए चैम्बर, एयर कंडीशनर, कूलर हुआ कमरा लेकिन वकील को बैठने के लिए झोपड़ी भी उपलब्ध नहीं मैं हाई कोर्ट या सुप्रीम कोर्ट की बात नही करता इस देश में हाई कोर्ट और सुप्रीय कोर्ट के अलावा जिलों में भी कचहरियां हैं और जिलों की कचहरियों में भी ऐडवोकेट्स रहते हैं, उनकी दशा पर अगर गौर किया जाए तो आप देखेंगे कि उनको बैठने के लिए जगह नहीं मिलती, झोपड़ी डालने की उनके पास जगह नहीं वे पेड़ों के नीचे बैठते हैं और मजिस्ट्रेट या जज उनको वहां भी बैठने नहीं देते, समय समय पर उनकी झोंपड़ियां उजड़वा दिया करते हैं। अक्सर वहां झगड़ा हुआ करता है बवाल हुआ करता है और यह वह वकील है जो सम्मानित पेशे वाला था, वह वकील जो पढ़ा लिखा है, वह वकील जो मेहनत करके अपने क्लाइंट के मुकदमें की पैरवी करता है, उस वकील को बैठाने के लिए जगह नहीं है धूप में बैठता है बारिश में बैठता है,कहीं कोई छाया नहीं तो उस वकील की इस दुर्दशा की तरफ से भी ध्यान दिया जाना चाहिए ताकि यह बार और बैंच जो न्यायपलिका रूपी के पहिए कहे जाते हैं, इनमें एकरूपता रह सके।

मैं तो इस वकील क्लास को धन्यवाद देना चाहता हूं बल्कि यूं कहा जा सकता है कि सरकार को इस वकील की क्लास का शुक्रगुजार होना चाहिए क्योंकि जब बेरोजगार लोगों की लिस्ट बनती है और गिना जाता है कि हमारे देश में कितने बेकार हैं तो कम सेकम ये बी.ए.एल.एल.बी. जो ऐडवोकेट हो जाते हैं, सरकार की अनऐम्लायड सूची से खत्म हो जाते हैं। ये तो सेल्फ ऐम्पलॉयमेंट खोजने वाले नौजवान को मिलती है इनको भी मिलनी चाहिए। ग्रांट नहीं हम कहते, लेकिन लोन तो

मिलना चाहिए जिससे कि ये अपनी बना सकें। इनको लोन चाहिए जिससे कि ये अपना एक चैम्बर बना सकें और यह लोन इनको मिनिमम इंटरेस्ट पर मिलना चाहिए।

सुझाव बहुत हैं, मैं माननीय विधि मंत्री जी से आग्रह करना चाहूंगा कि इस प्रकार की तमाम समस्याएं वकीलों कि हैं यह जो ऐडवोकेट वैलफेयर फंड बिल आया है, यह अपनी जगह पर है, इसके साथ मैं आग्रह करना चाहूंगा कि वे वकीलों से संबंधित सुविधाओं के बारे में एक कम्प्रिहेंसिव बिल लाएं ताकि वकील क्लास को थोड़ी सी राहत मिल सके। धन्यवाद।

SHRI N.K. PREMACHANDRAN (Kerala): Thank you, Madam Deputy Chairperson, for giving me an opportunity to speak on the Advocates' Welfare Fund Bill, 2001.

Madam, the legal profession is being considered as one of the noble professions in the world. This Bill is aimed as a welfare legislation as far as the advocate community or the legal fraternity is concerned. So, I support the Bill, in principle. But the contents of the Bill are totally disappointing. In the year 1980, the Kerala Legislative Assembly had passed a similar Bill, namely, the Advocates' Welfare Fund Bill; and that is in force since 1980. It is now 21 years old. As per that Act, the amount that used to be given to an advocate after 30 years of practice was Rs. 1 lakh. Now, it has been enhanced to Rs. 3 lakhs. The same Bill or the same Act is there. Here, as per this new legislation, an advocate is getting Rs. 30,000 after 30 years of practice. The admission fee is Rs. 200, the annual subscription is Rs. 50, and the *vakalatnama* welfare stamp fee is Rs. 5. So, an advocate or a practitioner who is contributing such an amount to the fund, after 30 years of practice would get a meagre amount of Rs. 30,000. That is why I have said that this Bill is totally disappointing, and this cannot be considered a welfare legislation. Madam, considering that an advocate is giving Rs. 50 as annual subscription, and, let us say, he is filing not less than 1000 *vakalatnamas* in a year, one can imagine how much amount he is contributing in a particular year. And he is getting back this amount after three decades, after 30 years. What would be the value of money after 30 years? Is it a profit or loss? What is the benefit available to the advocates after 30 years? My humble submission is that taking into consideration the other welfare measures, which are there in other States, this Bill has to be modified in future, but, for the time being, this could be accepted in principle, as far as a welfare legislation for the advocates is concerned.

Madam, the advocate's life is in three stages. We know junior advocate's situation is no good. In Malayaiam there is a proverb, which says: the first stage he has no case and no fees. In the second stage,

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he has a case, but gets no fees. Because there is no payment of fees, there is no payment of remuneration from senior to the junior. The third stage is, there is fees, but no case. Since he is a senior advocate, he is getting fees and there is nothing of his going to the court.

Sir, about the LLB course, legally I would like to highlight a point to the hon. Minister. Even now two systems of education are going on in our country -- there is a three-year LLB course and there is also a five-year LLB course. Legally, education has to be made uniform because after their education they have to undergo the same type of practice. That point also has to be taken into consideration.

Another point that I would like to make is that this is a social legislation. What is the contribution of the Government of India or of the State Government? In the State Welfare Bills, there is a contribution by the State Government. In Kerala, we are having more than 18 welfare legislations. In almost all the legislations, the State Government is also having its contribution to the particular fund so that the benefit will be given to the members of the fund. Here, the Home Secretary and the Law Secretary of the appropriate department are there. They are also a part and parcel of the fund. Here at the Centre, their contribution to the appropriate department is nil. That should also be taken into consideration and their contribution has to be specified.

With these words, I congratulate the hon. Minister for bringing forward a Bill, in principle, to have a legislation for a particular profession.

Madam, I conclude.

SHRI BP. SINGHAL (Uttar Pradesh): Madam, I would make just two suggestions.

My first point is that in sub-clauses the words did not include the female. If that was not the case, no woman would have the benefit, because there is no 'she' in that.

THE DEPUTY CHAIRMAN: Actually, if you spell 'she', it gives even the'.

SHRI B.P. SINGHAL: Yes. Rules will have to be framed as such so that the system is streamlined down to the level of Mofussil courts.

Two points have already been made by Mr. Ravi. They were about the Life Insurance and the Medical Insurance. Group Insurance would be a nice way of distributing the benefits of the Fund. So, Group Insurance should be encouraged. They should make contributions to manage the Group Insurance.

Thirdly, computers are now available in almost every district. Lawyers, particularly the junior ones, cannot afford libraries. They should be given facilities through a contract with the computer institutes which have a software for the legal fraternity. They could, then, make use of that. That way they will not have to spend more money on books or create a library for themselves.

SHRI ARUN JAITLEY : Madam, I am extremely grateful to the hon. Members of the House, who, in a large measure, supported this legislation and have also made very valuable suggestions.

I will just respond briefly to some of the points which have been raised. But, before I do that, I would say that a very serious charge was made about the legislative process that there is a gender bias. The rules of construction in the General Clauses Act actually inherently indicate that when we say the word 'he', the masculine gender should be taken to include the female.So, the rules of construction itself are, on all legislations...

SHRI KAPIL SIBAL: They are objectionable.

SHRI ARUN JAITLEY: From the beginning, all legislations have been on the basis of the General Clauses Act. The word "masculine" always includes the female.

THE DEPUTY CHAIRMAN: How old is this Act?

SHRI ARUN JAITLEY: It is of 1897.

THE DEPUTY CHAIRMAN: Since then, a lot of water has flown under the bridge. It is high time, you change it.

श्रीमती चन्द्रकला पांडेः मंत्री जी, अगर ऐसा होता तो महिला रिजर्वेशन कि बात नहीं होती।

SHRI KAPIL SIBAL: The Deputy Chairman rightly said, "She", includes "he", not the other way round.

SHRI ARUN JAITLEY: Yes; literally is a three letter word "she" in it.

THE DEPUTY CHAIRMAN: Even otherwise.

SHRI ARUN JAITLEY: Madam, one very significant point was made by Gen. Roy Chowdhury. He actually questioned the rationale behind this legislation. Before the House passes this Bill, I must endeavour to explain what the rationale behind this legislation is. You have a group of organised professionals, without any element of social security. You can take it, from the experience of some of our colleagues who are far more experienced in the legal profession than me. There are a very large number of them who are affluent. In fact, if you travel down to the districts, tehsils in the country, you will find a number of them who actually have no savings to fall back upon. And the rationale behind this legislation is the same rationale which is behind any social security scheme. Why do we say, "let us have a provident fund scheme, let us have a group insurance scheme"? In the case of any section of society, we have it because these are the amounts which belong to that section of the society. This legislation facilitates that the amount collected is secured on their behalf so that at the appropriate time, it comes to the benefit of that section of the society. That is the real rationale.

Then, Mr. Nariman and other Members who supported this legislation said, "whether this amount is going to be contributed by the advocates themselves." Gen. Roy Chowdhury doubted whether the advocates themselves would contribute; instead, they may compel their clients to contribute. I want to inform them, there is also a corresponding penal provision. If he does it, then, he would lose the benefits of the membership itself. As far as the litigants are concerned, we have tried to ensure that there is no legal compulsion on anybody to pay this amount. This is an amount which the lawyers themselves would have to pay.

The second question regarding the success of the scheme was raised by some Members. I think, I must once again explain it. In the beginning, I endeavoured to explain it. Madam, success or failure of this actually depends on three factors. One factor which I indicated was that some State legislations did not have the element of compulsion in it in enrolling members. Therefore, some became members; and some did not become members; and the scheme did not succeed. In this legislation, we have tried to make the membership compulsory.

The second factor is, what are the sources of funds, how large would be the corpus and what are the kinds of benefits to which the members of the Board would be entitled from it. If we have a fair reading

of this legislation, there are several sources of funds. As Mr. Kapil Sibal mentioned, mere membership of a Bar Association -- whether the Supreme Court Bar Association has 200 or 500 or 1000 members, active members -is completely irrelevant. There are different sources; the principal source is, the amount will be contributed by the Bar Council because the State Bar Councils are going to administer this fund; 20 per cent from the enrolment fee. This experiment, they have had in the State legislation. As far as those contributions are concerned, it has not exactly been a failure. The administration of this fund is essentially by those committees, where the Bar Councils are, in fact, over-represented. Now, about voluntary contributions. I appreciate the suggestion made by Mr. Nariman. There is an enabling provision that donations can be made, contributions can be made, by other sections, including Governments. But that is only an enabling provision. The principal source is from the Bar Councils, the others being the admission fee, the annual membership fee; and the most important thing is the recurring income which will be the largest source of income, i.e., the welfare stamps. Now with regard to the welfare stamps, there is already a provision that the amounts could be increased. There is an upper cap of Rs.25 mentioned by the Government, depending on how much money is required. So, we don't have to come back' to Parliament. The Parliament, in fact, delegates that authority to the appropriate Government. Initially, it is five rupees in every district court. Therefore, when we understate the figures, we must also keep in mind the volume of cases in the district courts. The annual filing in district courts across the country is almost one crore of cases. Therefore, if five rupees go to the corpus of the district court from one side, the annual corpus in the district courts could be as high as Rs. 10 crores.

As for other authorities, which Mrs. Dubey mentioned, the High Courts and the Supreme Court, where also there are a large number of cases, the amount is Rs.10/- on either side. The corpus, therefore, is a reasonable corpus. If it is insufficient, there is a mechanism by which this could be increased. Therefore, the corpus across the country is several crores of rupees every year. It is this money which is then to be invested into various welfare schemes, insurance schemes, etc. What is the amount that the lawyers would be entitled to?

SHRI KAPIL SIBAL: Would the hon. Minister yield for a second? You mentioned about *vakaiatnama* on both sides. Is it the Government's position that when the Government defends a litigation or moves the court,

for all individual officers on behalf of it, a separate *vakalatnama* would be filed and each *vakalatnama* would pay the same Rs. 10/-?

SHRI ARUN JAITLEY: We will certainly look into the question.

SHRI KAPIL SIBAL: It is very important from the "point of the view of the fund.

SHRI ARUN JAITLEY: I quite appreciate it. We will take that suggestion into consideration.

Therefore, the quantum from this fund which is to be contributed by lawyers themselves is not restricted to the 200 active practitioners of the Supreme Court, the illustration Mr. Sibal gave. But the amount should be reasonable. In fact, the Kerala experiment was given. Kerala is one of the States where it has been extremely successfully implemented. It is successfully implemented on this kind of amounts invested over a period of time. The welfare fund has been well governed. People say that at the end of their practice they are getting larger amounts.

As far as benefit schemes are concerned, it is not confined to Rs.30,000 mentioned in the Schedule alone. That Rs.30,000 is only a token amount. Clause 19 deals with various kinds of illnesses, sicknesses. Clause 21 deals with cessation of practice for whatever reason. The amount that you are entitled to, mentioned in the Schedule, is a token amount. Depending upon the large corpus available, that amount can be increased. The Schedules are amendable by the appropriate Governments. If the amount in the corpus is larger, that amount itself can be increased. I have a list of eight States. We have done a case study of all the States. Most of the States mention amounts mentioned in the Schedule itself.

Clause 24 deals with the principal amount. Mrs. Dubey mentioned about women lawyers. What about women lawyers? Suppose a lady lawyer is out of practice for a couple of months because of maternity absence. Clause 24 provides for group insurances; it provides for medical and educational facilities for dependants. When any scheme is framed by the State Committees, the Trust Committees, all the factors will have to be taken into consideration.

There is also a facility as far as help to young lawyers for books is concerned, and for common amenities. Ten per cent of the fund is to be earmarked. Somebody said particularly that High Courts and the Supreme Court have better amenities,.but it is not so with the subordinate courts. It

is meant exclusively for the subordinate courts. All other schemes, including benefits which are to be given in the event of death to the dependants, are covered by sub-clauses (e) and (f). That is how it is operated upon in the various States. In the event of death, whatever is the residual fund, how it is operated upon through insurances and through other sources available in the Trust Committees is available there. Therefore, the different kinds of payments which would be available in the event of sickness, in the event of cessation of practice, medical benefits, purchase of books, common amenities and oiher schemes which are formulated by the State Committees- Mr. Sibal and others rightly mentioned-would depend upon • the size of the corpus available. The size of the corpus available, considering the voluminous litigation in this country, is expected to be reasonable to start off with. Ultimately we have the flexibility of increasing those amounts if we find that the further amount itself is required.

THE DEPUTY CHAIRMAN: She also made some corrections regarding lady lawyers.

SHRI ARUN JAITLEY: That will all be part of it. The authority is with the State level Committee. In the State level Committees, the composition is essentially of lawyers. The Advocate-General will be the Chairman of the Committee; the Government or the State Government has only two officers, the Law Secretary and the Home Secretary; there will be the Chairman of the Bar Council, the Government Pleader, two advocates nominated by the Bar Council and the Secretary of the Bar Council.

There would be, at least, four representatives of the Bar Council, plus, the Advocate-General, the Government Pleaders, who would constitute this Body. They are the ones who are going to administer this Fund, they are the ones who are going to sell these stamps, to whom the Corpus of all these stamps etc. would be available. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: So far as the question of these creches is concerned, can't the courts provide these creches where there are more women, as they have in the companies, where if there is a certain number of women employees, it is compulsory for them to have creches? You can consider this suggestion.

SHRI ARUN JAITLEY: It is a suggestion which merits consideration. A question was raised with regard to desirability of this Fund. It is a Social Security scheme. There would be a reasonable Corpus, and then, it essentially depends on how it is administered, and how we are able to

increase these amounts themselves. Some other suggestions were made with regard to the Senior Advocates. I may explain this point, since it is a question which was specifically raised. One suggestion has been made that why should the affluent section among the Advocates be entitled to the benefit of the Social Security scheme? Therefore, when a meeting was held with the Bar Council of India and various representatives of the Bar Associations, a suggestion which emanated from them itself was, could this section be excluded? It was mentioned that they pay an amount of Rs. 1,0007- every year, and that is an amount which is very nominal for them, they are excluded from section 19, section 21 and from three of the provisions of section 24. But they are entitled to the benefits of the collective provisions of section 24, as per the scheme, which will be framed. So, the exclusion is with regard to three clauses of section 24, and not with regard to the other three clauses of section 24, and it is for that benefit that they are expected to pay an amount, which is, in fact, a very small amount, considering that the section of Senior Advocates itself would not mind paying this amount. Mr. Fali S. Nariman's suggestion was that they would probably be willing to pay a much larger amount itself. A suggestion was made to include the Bar Associations into it. We have specifically considered this point. We found it difficult to include that suggestion for the reason that in several States, there are hundreds of Bar Associations. We have the Bar Association of the High Court, each district has a Bar Association, the Income-tax Bar has a Bar Association, and the Sales Tax Lawyers have a Bar Association. Each Bar has a Bar Association. Therefore, if we started searching for which one to include, we will run into a lot of difficulties. These are all voluntary bodies, and therefore, to confine it to the statutory body, called the Bar Council of the State, probably, was considered more appropriate, because the Bar Council covers everybody, and that is why, all those lawyers, who are members of the Bar Associations, are also members of the Bar Council itself, and that is why the Bar Associations have been kept out. We really did not want to allow anybody to pick and choose which Bar Association is to be brought into it. It is for this objective that this legislation has been brought. I am extremely grateful to the hon. Members for the valuable suggestions that they have given, and I commend to this hon. House that this Bill be passed.

THE DEPUTY CHAIRMAN : The Minister has promised a lot of things and explained a lot of things. I hope he will consider these things. The question is:

"That the Bill to provide for the constitution of a welfare fund for the benefit of advocates and for matters connected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration."

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN : We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 38, Schedule I and Schedule II were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI ARUN JAITLEY: Madam, I beg to move:

That the Bill be passed.

The question was put and the motion was adopted.

SHORT DURATION DISCUSSION

Failure of Public Distribution System and Need for Revamping it

THE DEPUTY CHAIRMAN: Now, we will take up the Short Duration Discussion on the failure of the Publication Distribution System and need for revamping it. In fact, we were to start it at four o'clock. The time allotted for this purpose is two hours and thirty minutes. Shri Suresh Pachouri to start it.

श्री सुरेश पचौरीः उपसभापति महोदया, जिस देश में लगभग तीस प्रतिशत लोग गरीबी रेखा के नीचे रहते हों वहां निश्चित रूप से सार्वजनिक वितारण प्रणाली को मजबूत बनाने के बहुत ज्यादा आवश्यकता महसूस होती है। यह सार्वजनिक वितरण प्रणाली ही है जो गरीब और मजदूर लोगों को बढ़ती हुई महंगाई और मुनाफाखोरी से मुक्ति दिला सकती है। आम आदमी के उपयोग में आने वाली वस्तुओं का बाजार में जो कृत्रिम अभाव होता है और कीमतों में जो बेतहाशा वृद्धि होती है उस पर अंकुश लगने का काम भी सार्वजनिक वितरण प्रणाली के जरिए किया जा सकता है।

[उपसभाध्यक्ष (श्री नीलोत्पल बसु)पीठासीन हुए]

मान्यवर करोड़ों टन अनाज हमारे देश में उपलब्ध हैं लेकिन उसे रखने की हमारे यहां जगह नहीं हैं । लगभग करोड़ लोग आए दिन भूख की चपेट में आते रहते हैं। उन्हें इंडियन मेडिकल कौंसिल की रिसर्च ब्रांच के हिसाब से जितना खाद्यान्न मिलना चाहिए उतना उपलब्ध नहीं हो पाता। एक तरफ तो हमारे देश की यह तस्वीर है और दूसरी तरफ हमारे देश कि केंद्रीय सरकार है उसकी सार्वजनिक वितरण प्ररणाली है। इसमें जो भी दावे किए हैं वे सारे के सारे खोखले साबित होते जा रहे हैं इसलिए आवश्यकता हैं कि इस सार्वजनिक वितरण प्रणाली के